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MAR 26 2009

OFFICE OF PETITIONS

In re Application of Bogdan et al. :
Application No. 10/648,909 : Decision on Petition
Filing Date: August 27, 2003 :
Attorney Docket No. 67,108-017 :

This is a decision on the petition filed December 11, 2008, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

The Office mailed a Notice of Allowance on July 23, 2008. The Notice set a time period for reply of three months. The Office did not receive a reply to the Notice of Allowance. As a result, the application became abandoned on October 24, 2008. A Notice of Abandonment was mailed November 19, 2008.

Petitioner contends the Notice of Allowance was never received. In support of the petition, petitioner has submitted:

- (A) A statement that a search of the file jacket has been performed,
- (B) A copy of all docket actions associated with Attorney Docket No. 67,108-017, and
- (C) A docket report for matters being handled by Attorney Gaskey which had due dates between July 1, 2008, and October 31, 2008.

MPEP 711.03(c)(I)(A) states, with emphasis added,

[A]n allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action....

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the *master docket* for the firm. That is, if a three month period for reply

was set in the nonreceived Office action, *a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state* and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has not submitted a copy of the relevant portion of a master docket for the entire law firm or provided a statement indicating the law firm does not maintain such a docket. Therefore, the petition cannot be granted.

Any request for reconsideration should include a copy of the relevant part of the firm's master docket *or* state the law firm does not maintain such a docket.

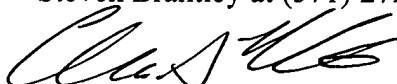
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
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Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



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